

SB 424 REPEALER

EXHIBIT 2
DATE 3/29/07
SB 424

72-30-201. Endowment funds subject to appropriation and expenditure -- net appreciation. (1)

The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by 72-30-206.

(2) This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

72-30-202. Determination of historic dollar value by institution conclusive. The determination of historic dollar value made in good faith by the institution is conclusive.

72-30-203. Donor's intention restricting expenditure of net appreciation. (1) Section 72-30-201 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended.

(2) A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment or from a direction or authorization in the applicable gift instrument to use only "income", "interest", "dividends", or "rents, issues, or profits" or "to preserve the principal intact" or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after July 1, 1973.

72-30-204. Allowable investments -- retention of property. In addition to an investment otherwise authorized by law or by the applicable gift instrument and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investment by a fiduciary, may:

(1) invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations; shares in or obligations of associations, partnerships, or individuals; and obligations of any government or subdivision or instrumentality thereof;

(2) retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) include all or part of any institutional fund in any pooled or common fund maintained by the institution; and

(4) invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

72-30-205. Delegation of investment authority -- advisory service. Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may:

(1) delegate to its committees, officers, or employees of the institution or the fund or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds;

(2) contract with independent investment advisors, investment counsel or managers, banks, or trust companies so to act; and

(3) authorize the payment of compensation for investment advisory or management services.

72-30-206. Standard of care in management. In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long- and short-term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.